IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TEXARKANA DIVISION

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GARY SMITH

Plaintiff

v.

BRIAN COLLIER, ET AL.

Defendants

Case No. 5:24cv4-RWS-JBB

ORDER

Plaintiff Gary Smith, an inmate proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. *See* Docket No. 1. The lawsuit was referred to the United States Magistrate Judge.

On February 14, 2024, the Court ordered Plaintiff to either (1) pay the statutory \$405.00 filing fee or (2) furnish a properly certified *in forma pauperis* data sheet or inmate account summary sheet, which may be obtained from an authorized officer in the law library at the institution where he is confined. Docket No. 4. That same day, the Court also ordered Plaintiff to file, within 30 days from the date of receipt of the order, a short and plain statement setting forth the Plaintiff's claims, on a standard §1983 lawsuit form and written in a legible manner and no more than 30 pages in length. Docket No. 3. Plaintiff was advised in both orders that failure to comply might lead to a recommendation of dismissal for failure to prosecute or to obey an order of the Court. Plaintiff failed to comply with the orders.¹

Therefore, on July 22, 2024, the Magistrate Judge issued a Report and Recommendation, recommending that the above lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Docket No. 9. Plaintiff received a copy of this Report on August 13, 2024,

¹ Plaintiff acknowledged receipt of the orders on March 19, 2024 and April 9, 2024. Docket Nos. 7, 8.

but has filed no objections. Docket No. 10. Accordingly, he is barred from de novo review by the

District Judge of those findings, conclusions, and recommendations and, except upon grounds of

plain error, from appellate review of the unobjected-to factual findings and legal conclusions

accepted and adopted by the District Court. Duarte v. City of Lewisville, Texas, 858 F.3d 348, 352

(5th Cir. 2017).

The Court has reviewed the pleadings in this cause and the Report and Recommendation of

the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate

Judge is correct. See United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S.

918 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is

"clearly erroneous, abuse of discretion and contrary to law"). It is accordingly

ORDERED that the Report and Recommendation of the Magistrate Judge (Docket No. 9)

is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE**

for failure to prosecute or to obey an order of the Court.

So ORDERED and SIGNED this 18th day of September, 2024.

<u>Poher + W Filmeder</u> ROBERT W. SCHROEDER III

UNITED STATES DISTRICT JUDGE